

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

LOCAL 8027, AFT-NEW HAMPSHIRE, AFL-CIO, RYAN
RICHMAN, JOHN DUBE and JOCEYLN MERRILL,
teachers in the New Hampshire Public Schools, and
KIMBERLY GREEN ELLIOTT and MEGHAN EVELYN
DURDEN, parents or guardians of children in the New
Hampshire public schools.

Plaintiffs,

v.

FRANK EDELBLUT, in his Official Capacity as
Commissioner of the DEPARTMENT OF EDUCATION,
CHRISTIAN KIM in his Official Capacity as the Chair of the
NEW HAMPSHIRE COMMISSION ON HUMAN RIGHTS,
and JOHN FOMELLA in his Official Capacity as
ATTORNEY GENERAL of the State of New Hampshire.

Defendants.

ANDRES MEJIA,
CHRISTINA KIM PHILIBOTTE, and
NATIONAL EDUCATION ASSOCIATION-NEW
HAMPSHIRE,

Plaintiffs,

v.

FRANK EDELBLUT, in his official capacity only as the
Commissioner of the New Hampshire Department of
Education,

JOHN M. FORMELLA, in his official capacity only as the
Attorney General of the State of New Hampshire,

AHNI MALACHI, in her official capacity only as the
Executive Director of the New Hampshire Commission for
Human Rights,

CHRISTIAN KIM, in his official capacity
only as the Chair of the New Hampshire Commission for
Human Rights,

KEN MERRIFIELD, in his official capacity only as the
Commissioner of the Department of Labor,

Defendants.

Civil No. 1:21-cv-01077-PB

**DECLARATION OF GILLES BISSENETTE, ESQ.
IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

I, Gilles Bissonnette, Esq., declare as follows:

I am the Legal Director for the American Civil Liberties Union of New Hampshire and co-counsel for Plaintiffs Christina Kim Philibotte and Anders Mejia in this case. I am an active member of the New Hampshire bar. I make this declaration in support of Plaintiffs' Motion for Summary Judgment.

1. Attached as Exhibit 1 is a true and correct copy of the full text of the Amendments (Depo. Ex. 1).

2. Attached as Exhibit 2 is a true and correct copy of the deposition transcript of Department of Education Commissioner Frank Edelblut. A redacted version has been filed publicly, and an unredacted version has been filed under seal.

3. Attached as Exhibit 3 is a true and correct copy of the deposition transcript of Department of Education Attorney Diana Fenton. A redacted version has been filed publicly, and an unredacted version has been filed under seal.

4. Attached as Exhibit 4 is a true and correct copy of the deposition transcript of Department of Education Investigator Richard Farrell. A redacted version has been filed publicly, and an unredacted version has been filed under seal.

5. Attached as Exhibit 5 is a true and correct copy of Human Rights Commission Director Ahni Malachi. A redacted version has been filed publicly, and an unredacted version has been filed under seal.

6. Attached as Exhibit 6 is a true and correct copy of Human Rights Commission Assistant Director Sarah Burke Cohen. A redacted version has been filed publicly, and an unredacted version has been filed under seal.

7. Attached as Exhibit 7 is a true and correct copy of the declaration of NEA-NH President Megan Tuttle.

8. Attached as Exhibit 8 is a true and correct copy of the declaration of AFT-NH President Deb Howes.

9. Attached as Exhibit 9 is a true and correct copy of the declaration of Plaintiff John Dube.

10. Attached as Exhibit 10 is a true and correct copy of the declaration of Kamren Munz.

11. Attached as Exhibit 11 is a true and correct copy of the declaration of Alison O'Brien.

12. Attached as Exhibit 12 is a true and correct copy of the declaration of Patrick Keefe.

13. Attached as Exhibit 13 is a true and correct copy of the declaration of Plaintiff Christina Kim Philibotte.

14. Attached as Exhibit 14 is a true and correct copy of the declaration of Jennifer Given.

15. Attached as Exhibit 15 is a true and correct copy of the declaration of Plaintiff Andres Mejia.

16. Attached as Exhibit 16 is a true and correct copy of the declaration of Sean O'Mara.

17. Attached as Exhibit 17 is a true and correct copy of the declaration of Plaintiff Ryan Richman.

18. Attached as Exhibit 18 is a true and correct copy of the declaration of Plaintiff Jocelyn Merrill.

19. Attached as Exhibit 19 is a true and correct copy of a July 26, 2021 email from DOE Commissioner Frank Edelblut.

20. Attached as Exhibit 20 is a true and correct copy of the HRC's October 7, 2021 Commissioners' meeting minutes (Depo. Ex. 56).

21. Attached as Exhibit 21 is a true and correct copy of DOE Commissioner Edelblut's June 13, 2021 op-ed (Depo. Ex. 4).

22. Attached as Exhibit 22 is a true and correct copy of the Northwood Republican Town Committee's "CRT Parents' Guide" (Depo. Ex. 51).

23. Attached as Exhibit 23 is a true and correct copy of Depo. Ex. 32. This has been filed under seal.

24. Attached as Exhibit 24 is a true and correct copy of the HRC docketed charge (Depo. Ex. 62). This has been filed under seal.

25. Attached as Exhibit 25 is a true and correct copy of Depo. Ex. 63. This has been filed under seal.

26. Attached as Exhibit 26 is a true and correct copy of Depo. Ex. 64. This has been filed under seal.

27. Attached as Exhibit 27 is a true and correct copy of Kathryn Borysenko's Aug. 19, 2022 article (Depo. Ex. 65).

28. Attached as Exhibit 28 is a true and correct copy of Depo. Ex. 66. This has been filed under seal.

29. Attached as Exhibit 29 is a true and correct copy of the August 2022 "Actively Unwoke" tweets (Depo. Ex. 67).

30. Attached as Exhibit 30 is a true and correct copy of Depo. Ex. 68. This has been filed under seal.

31. Attached as Exhibit 31 is a true and correct copy of Depo. Ex. 69. This has been filed under seal.

32. Attached as Exhibit 32 is a true and correct copy of Depo. Ex. 70. This has been filed under seal.

33. Attached as Exhibit 33 is a true and correct copy of Depo. Ex. 71. This has been filed under seal.

34. Attached as Exhibit 34 is a true and correct copy of Depo. Ex. 72. This has been filed under seal.

35. Attached as Exhibit 35 is a true and correct copy of Depo. Ex. 73. This has been filed under seal.

36. Attached as Exhibit 36 is a true and correct copy of Depo. Ex. 74. This has been filed under seal.

37. Attached as Exhibit 37 is a true and correct copy of Depo. Ex. 75. This has been filed under seal.

38. Attached as Exhibit 38 is a true and correct copy of Depo. Ex. 76. This has been filed under seal.

39. Attached as Exhibit 39 is a true and correct copy of Depo. Ex. 77. This has been filed under seal.

40. Attached as Exhibit 40 is a true and correct copy of DOE Commissioner Edelblut's April 15, 2022 op-ed and attachments (Depo. Ex. 14).

41. Attached as Exhibit 41 is a true and correct copy of a September 22, 2021 email exchange between AFT and DOE Commissioner Edelblut (Depo. Ex. 9).

42. Attached as Exhibit 42 is a true and correct copy of the NEA-NH's July 12, 2021 and August 5, 2021 letters (Depo. Ex. 11).

43. Attached as Exhibit 43 is a true and correct copy of a Sept. 13, 2021 NEA-NH email to the HRC (Depo. Ex. 54).

44. Attached as Exhibit 44 is a true and correct copy of an Oct. 18, 2021 email from R. Farrell to D. Fenton (Depo. Ex. 24).

45. Attached as Exhibit 45 is a true and correct copy of the July 21, 2021 Guidance (Depo. Ex. 55).

46. Attached as Exhibit 46 is a true and correct copy of the DOJ's interrogatory responses.

47. Attached as Exhibit 47 is a true and correct copy of the HRC's interrogatory responses (Depo. Ex. 58).

48. Attached as Exhibit 48 is a true and correct copy of the DOE's interrogatory responses (Depo. Ex. 57).

49. Attached as Exhibit 49 is a true and correct copy of the HRC's website and questionnaire (Depo. Ex. 60).

50. Attached as Exhibit 50 is a true and correct copy of the DOE's December 2021 presentation (Depo. Ex. 3).

51. Attached as Exhibit 51 is a true and correct copy of the DOE's August 21 presentation (Depo. Ex. 7).

52. Attached as Exhibit 52 is a true and correct copy of a Nov. 24, 2021 J. McKim email chain.

53. Attached as Exhibit 53 is a true and correct copy of the Attorney General's 2021-02 Opinion dated Sept. 7, 2021 (Depo. Ex. 12).

54. Attached as Exhibit 54 is a true and correct copy of excerpts of the 2019 book *How to be an Anti-racist* by Dr. Ibram X. Kendi (Depo. Ex. 50).

55. Attached as Exhibit 55 is a true and correct copy of the Sept. 28, 2020 Executive Office of the President's Memorandum.

56. Attached as Exhibit 56 is a true and correct copy of excerpts of the July 8, 2021 Board of Education meeting.

57. Attached as Exhibit 57 is a true and correct copy of a Dec. 14, 2021 email chain with DOE Commissioner F. Edelblut.

58. Attached as Exhibit 58 is a true and correct copy of a July 22, 2021 email from S. Gibson to A. Malachi (Depo. Ex. 47).

59. Attached as Exhibit 59 is a true and correct copy of the Nov. 15, 2021 F. Edelblut/Northwood GOP Meeting email exchange (Depo. Exs. 37 and 52).

60. Attached as Exhibit 60 is a true and correct copy of a Jan. 20, 2023 D. Fenton email exchange (Depo. Ex. 10).

61. Attached as Exhibit 61 is a true and correct copy of the HRC's May 2, 2022 letter to NEA-NH.

62. Attached as Exhibit 62 is a true and correct copy of a Nov. 15, 2021 R. Farrell email exchange (Depo. Ex. 34).

63. Attached as Exhibit 63 is a true and correct copy of an Aug. 20, 2021 F. Edelblut email exchange (Depo. Ex. 45).

64. Attached as Exhibit 64 is a true and correct copy of an Aug. 25, 2022 email to F. Edelblut (Depo. Ex. 48).

65. Attached as Exhibit 65 is a true and correct copy of excerpts of the Mar 8, 2023 HB533 hearing (Depo. Ex. 6).

66. Attached as Exhibit 66 is a true and correct copy of an Aug. 27, 2021 F. Edelblut email exchange. This has been redacted to omit personally identifiable information.

67. Attached as Exhibit 67 is a true and correct copy of an Oct. 21, 2021 F. Edelblut email exchange. This has been redacted to omit personally identifiable information.

68. Attached as Exhibit 68 is a true and correct copy of a Dec. 13, 2021 F. Edelblut email exchange (Depo. Ex. 15). This has been redacted to omit personally identifiable information.

69. Attached as Exhibit 69 is a true and correct copy of an Aug. 23, 2021 F. Edelblut email exchange (Depo. Ex. 19). This has been redacted to omit personally identifiable information.

70. Attached as Exhibit 70 is a true and correct copy of an Aug. 12, 2021 F. Edelblut email exchange. This has been redacted to omit personally identifiable information.

71. Attached as Exhibit 71 is a true and correct copy of a June 14, 2022 email to R. Farrell (Depo. Ex. 36). This has been redacted to omit personally identifiable information.

72. Attached as Exhibit 72 is a true and correct copy of a Nov. 15, 2021 DOE email exchange (Depo. Ex. 22).

73. Attached as Exhibit 73 is a true and correct copy of an Nov. 15, 2021 F. Edelblut email exchange. This has been redacted to omit personally identifiable information.

74. Attached as Exhibit 74 is a true and correct copy of true and correct copy of a Dec. 28, 2021 F. Edelblut email exchange (Depo. Ex. 43).

75. Attached as Exhibit 75 is a true and correct copy of the HRC's March 4, 2022 letter (Depo. Ex. 53).

76. Attached as Exhibit 76 is a true and correct copy of an Implicit Bias Training Hosted by the New Hampshire Attorney General's Office on November 20, 2020.

77. Attached as Exhibit 77 is a true and correct copy of May 3, 2021 and May 4, 2021 Presentations to N.H. Court System.

78. Attached as Exhibit 78 is a true and correct copy of Sept. 22, 2020 Trump Executive Order.

79. Attached as Exhibit 79 is a true and correct copy of HB544 Docket and Language.

80. Attached as Exhibit 80 is a true and correct copy of Select Written Testimony from Public Supporting HB544 to House Executive Departments and Administration Committee, With Highlights Added.

81. Attached as Exhibit 81 is a true and correct copy of HB2/Budget Trailer Materials.

82. Attached as Exhibit 82 is a true and correct copy of the article "Compromise Sought on Anti-Critical race Theory Bill" from April 19, 2021.

83. Attached as Exhibit 83 is a true and correct copy of Rep. Daniel Itse, "Taxpayers Money is Being Used to Promote Systemic Racism in NH," Union Leader (Apr. 28, 2021).

84. Attached as Exhibit 84 is a true and correct copy of an excerpt from the Jan. 11, 2022 HB1313 hearing.

85. Attached as Exhibit 85 is a true and correct copy of a Feb. 1, 2022 F. Edelblut email exchange. This has been redacted to omit personally identifiable information.

86. Attached as Exhibit 86 is a true and correct copy of a Mar. 18, 2022 D. Fenton email exchange (Depo. Ex. 23). This has been redacted to omit personally identifiable information.

87. Attached as Exhibit 87 is a true and correct copy of Drummond Woodsum August 5, 2021 Presentation

88. Attached as Exhibit 88 is a true and correct copy of the DOE's Nov. 10, 2021 website (Depo. Ex. 21).

89. Attached as Exhibit 89 is a true and correct copy of the DOE's Nov. 10, 2021 press release (Depo. Ex. 25).

90. Attached as Exhibit 90 is a true and correct copy of a Nov. 15, 2021 F. Edelblut email exchange (Depo. Ex. 41).

91. Attached as Exhibit 91 is a true and correct copy of a Nov. 17, 2021 HRC email exchange (Depo. Ex. 61).

92. Attached as Exhibit 92 is a true and correct copy of an Oct. 25, 2021 F. Edelblut email exchange (Depo. Ex. 33). This has been redacted to omit personally identifiable information.

93. Attached as Exhibit 93 is a true and correct copy of an Oct. 26, 2021 F. Edelblut email exchange (Depo. Ex. 38). This has been redacted to omit personally identifiable information.

94. Attached as Exhibit 94 is a true and correct copy of an Oct. 1, 2021 F. Edelblut email exchange. This has been redacted to omit personally identifiable information.

95. Attached as Exhibit 95 is a true and correct copy of an Oct. 26, 2021 F. Edelblut email exchange that was redacted by the DOE under RSA ch. 91-A.

96. Attached as Exhibit 96 is a true and correct copy of a Sept. 7, 2021 F. Edelblut email exchange (Depo. Ex. 16). This has been redacted to omit personally identifiable information.

97. Attached as Exhibit 97 is a true and correct copy of a Sept. 3, 2021 F. Edelblut email exchange (Depo. Ex. 17). This has been redacted to omit personally identifiable information.

98. Attached as Exhibit 98 is a true and correct copy of Depo. Ex. 31. This has been filed under seal.

99. Attached as Exhibit 99 is a true and correct copy of Depo. Ex. 40. This has been filed under seal.

100. Attached as Exhibit 100 is a true and correct copy of the Feb. 7, 2022 No Left Turn Letter (Depo. Ex. 26).

101. Attached as Exhibit 101 is a true and correct copy of a Feb. 22, 2022 F. Edelblut email exchange (Depo. Ex. 27).

102. Attached as Exhibit 102 is a true and correct copy of a Feb. 14, 2022 R. Farrell email exchange (Depo. Ex. 28).

103. Attached as Exhibit 103 is a true and correct copy of an Apr. 7, 2022 DOE email exchange (Depo. Ex. 18). This has been redacted to omit personally identifiable information.

104. Attached as Exhibit 104 is a true and correct copy of Depo. Ex. 46. This has been filed under seal.

105. Attached as Exhibit 105 is a true and correct copy of an. Aug. 24, 2022 R. Farrell email exchange (Depo. Ex. 29).

106. Attached as Exhibit 106 is a true and correct copy of a Sept. 21, 2021 F. Edelblut email exchange (Depo. Ex. 39). This has been redacted to omit personally identifiable information.

107. Attached as Exhibit 107 is a true and correct copy of a Jan. 7, 2022 email from Ann Marie Banfield opposing SB304.

108. Attached as Exhibit 108 is a true and correct copy of a Feb. 18, 2021 email from D. Richards in HB544's legislative history (Depo. Ex. 49).

I hereby declare under penalties of perjury that the foregoing is true and accurate.

/s/ Gilles Bissonnette
Gilles Bissonnette

August 14, 2023